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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/803,627

03/17/2004

William B. Budrow

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4631 7590 01/19/2005

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EXAMINER

FULTON, CHRISTOPHER W

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary**

Application No.

10/803,627

Applicant(s)

BUDROW ET AL.

Examiner

Christopher W. Fulton

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-25 is/are allowed.
- 6) ☒ Claim(s) 1-4, 12, 26, 27 and 29 is/are rejected.
- 7) ☒ Claim(s) 5-11, 13-20 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/17/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Acopulos.

The device as claimed is disclosed by Acopulos with a housing 22 having an end face with a laser beam 52 projecting therefrom, a base 24, the housing being mounted on the base, the housing being pivotable about a first pivot relative to the base, and the housing having a spirit level assembly 18.

3. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee.

The device as claimed is disclosed by Lee with a housing 3 having an end face with a laser beam 61 projecting therefrom, a base 2, the housing being mounted on the base, the housing being pivotable about a first pivot relative to the base. With respect to claim 12 the positioning of the device in intended use to the device which must be supported by structural limitations to provide the intended use with patentable weight. As an aside, the intended use of the device can be met by inverting the device of Lee to mounted the device on the bottom of a table.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Goodrich et al.

The device as claimed is disclosed by Lee as stated in the rejection recited above for claims 1 and 12, but lacks the base including a magnet to hold the device to the workpiece. Goodrich et al teaches using a magnet 45 (figure 10) in the base of a laser device to hold the device to the workpiece. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a magnet in the base of Lee as taught by Goodrich et al to hold the device to the workpiece.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Acopulos.

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The device as claimed is disclosed by Lee as stated in the rejection recited above for claims 1 and 12, but lacks the housing including a spirit level to position the device as desired.

Acopulos teaches using a spirit level in the housing to position the device as desired. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a spirit level in the housing of Lee as taught by Acopulos to position the device as desired.

8. Claims 4, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Bijawat et al.

The device as claimed is disclosed by Lee as stated in the rejection recited above for claims 1 and 12 along with marking means (any edge) to relocate the device at a previous location, but lacks the a slide plate to change the output of the laser beam with one of the outputs being two planes transverse to each other. Bijawat et al teaches using a slide plate 162 to change the output of a laser beam with one of the outputs being two planes transverse to each other (see fig. 11B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a slide plate in Lee as taught by Bijawat et al to change the output of a laser beam with one of the outputs being two beams transverse to each other.

9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Bijawat et al as applied to claims 4, 26, and 27 above, and further in view of Goodrich et al.

The device as claimed is disclosed by the combination of Lee and Bijawat et al together as stated in the rejection recited above for claims 4, 26, and 27, but lacks notches in the base to mark specific locations of the device on the workpiece. Goodrich et al teaches using a pair of notches 34, 36 on a base of a laser device to mark a location of the device on a workpiece.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a pair of notches on the base of the combination of Lee and Bijawat et al as taught by Goodrich et al to locate the device at a previous or desired location on a workpiece.

*Allowable Subject Matter*

10. Claims 21-25 are allowed.

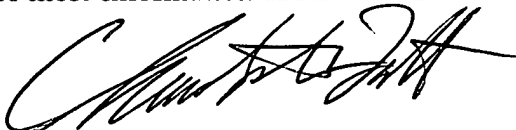
11. Claims 5-11, 13-20, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-Th 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

CWF



Christopher W. Fulton  
Primary Examiner  
Art Unit 2859